

PATENT
Attorney Docket No. 101.0094-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|----------------------------|---|-------------------------|
| In re Application of: |) | Confirmation No.: 6676 |
| Gary K. Michelson |) | |
| Serial No.: 10/808,852 |) | Group Art Unit: 3726 |
| Filed: March 25, 2004 |) | Examiner: Stephen Kenny |
| For: METHOD FOR FORMING AN |) | |
| ORTHOPEDIC IMPLANT |) | |
| SURFACE CONFIGURATION |) | |

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

TERMINAL DISCLAIMER

Petitioner ("inventor/owner") Gary Karlin Michelson, residing at 13140 Boca De Canon Lane, Los Angeles, California 90049, represents that he is the only inventor/owner of the entire right, title and interest in and to the above-identified application, Serial No. 10/808,852, filed March 25, 2004 for METHOD FOR FORMING AN ORTHOPEDIC IMPLANT SURFACE CONFIGURATION and is the only inventor/owner of the entire right, title and interest in and to application Serial No. 09/921,851, filed August 3, 2001 for SPINAL IMPLANT SURFACE CONFIGURATION. Inventor/owner Gary Karlin Michelson further represents through his representative that to the best of inventor/owner's knowledge and belief, title to the above-identified application and application Serial No. 09/921,851 are in inventor/owner, which is submitting this Terminal Disclaimer.

To obviate a double patenting rejection, Gary Karlin Michelson hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-identified application, Serial No. 10/808,852, which would extend beyond the expiration date of any patent granted on application Serial No. 09/921,851 and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the

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same as the legal title to any patent granted on application Serial No. 09/921,851, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on application Serial No. 10/808,852 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of any patent granted on application Serial No. 09/921,851, as presently shortened by any terminal disclaimer, in the event that any patent granted on application Serial No. 09/921,851: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$130.00 is to be charged to Deposit Account No. 50-1066.

If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this reply, please charge the fees to our Deposit Account No. 50-1066. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

The undersigned is authorized to act on behalf of Petitioner Gary Karlin Michelson.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: May 4, 2005

By: 

Amedeo F. Ferraro
Registration No. 37,129

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FORM PTO-1083

Attorney Docket No.: 101.0094-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson

Serial No: 10/808,852

Filed: March 25, 2004

For: METHOD FOR FORMING AN ORTHOPEDIC
IMPLANT SURFACE CONFIGURATION

Confirmation No.: 6676

Art Unit: 3726

Examiner: Stephen Ker ny

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a reply to the Office Action dated November 18, 2004 in the above-identified application.

- ☐ No additional fee is required.
- ☒ Applicant hereby requests a three-month extension of time to respond to the above office action.
- ☒ A Terminal Disclaimer is enclosed.

The fee has been calculated as shown below:

| | (Col. 1) CLAIMS REMAINING AFTER AMENDMENT | | (Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR | (Col. 3) PRESENT EXTRA* | LG/SM \$ ENTITY FEE | ADD'L FEE DUE |
|---|---|---|---|-------------------------------|--|------------------|
| TOTAL CLAIMS FEE | 29 | - | 29 | 0 | LG=\$50 SM=\$25 | \$ 0 |
| INDEPENDENT CLAIMS FEE | 2 | - | 3 | 0 | LG=\$200 SM=\$100 | \$ 0 |
| FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS | | | | | LARGE ENTITY FEE = \$300 SMALL ENTITY FEE = \$180 | \$ 0 |
| TOTAL | | | | | | \$ 0 |

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

- If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- ☐ A check in the amount of \$___ to cover the above fees is enclosed.
- ☒ The total amount of \$1,150.00 to cover the 1,020 three-month extension of time fee and \$130 Terminal Disclaimer fee is to be charged to Deposit Account No. 50-1066.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1066. A copy of this sheet is enclosed.
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,
MARTIN & FERRARO, LLPBy: Amadeo F. Ferraro
Registration No. 37,129

Date: May 4, 2005

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Transmittal of Amendment.DOC